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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/517,245

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Takahiro Miyake

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EXAMINER

ORTIZ CRIADO, JORGE L

ART UNIT

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2627

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/517,245	<b>Applicant(s)</b> MIYAKE ET AL.	
	<b>Examiner</b> JORGE L. ORTIZ CRIADO	<b>Art Unit</b> 2627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-15 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claims 1, 4, 5 and 15 recites the limitations “differences between peaks of measurement values and valleys of the measurement values”.

The examiner cannot find where in the specification as originally filed support for the claim language is found.

Applicant's suggestion of support in page 68 to page 69 has been considered but support is not found in the cited portions. Applicant's also asserts that there is support that can be understood from an attached drawing that presumably is depicted. However, the drawing has not been received and Applicant is reminded that support must be found in the disclosure as originally filed.\

Correspondent dependent claims fall together accordingly

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 16-20 and 22-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Ichimura et al. U.S. Patent No. 6,826, 133.

Regarding claim 16 and 17, Ichimura et al. discloses a method of correcting a spherical aberration focus offset of an optical pickup, said method correcting a spherical aberration and a focus offset in an optical system when the pickup projects a collected beam onto a recording surface of an optical storage medium to retrieve recorded information by means of an intensity of reflection from the recording surface, said method being characterized in that it comprises: the step of recording a signal on the storage medium at a predetermined write power; the step of reproducing the recorded information from the reflection; the step of producing a first correction target in the presence of a predetermined second correction target and changing the first correction target, where the first correction target is either one of the focus offset and the spherical aberration, and the second correction target is the other one the optimal first correction target detection step of detecting an occurrence condition of the first correction target when the first correction target is a minimum; the step of producing the second correction target under an

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occurrence condition of the minimum first correction target and changing a magnitude of the second correction target; and the optimal second correction target detection step of detecting an occurrence condition of the second correction target when the second correction target is a minimum, wherein the magnitude of the spherical aberration and the magnitude of the focus offset obtained in the first correction target detection step and the optimal second correction target detection step are used to correct the spherical aberration and the focus offset (refers to Figs. 6A 6B and Fig. 7; col. 7, line 65 to col. 8 line 36).

Claims 17 and 18 are drawn to the chose alternative language provided in claim 16 of the correction target, respectively and are rejected for the same reasons of anticipation.

Regarding claims, 19 and 20, Ichimura et al. discloses of the use of the maximize amplitude of the reproduced signal as well as of minimize jitter of the same (refer to Fig. 6B; col. 11 lines 9-14).

Regarding claim 22, claim 22 is drawn to the optical pickup that uses the method of claim 16 and is rejected for the same reasons of anticipation as used above, also refer to Fig. 8.

Regarding claim 23, Ichimura et al. further discloses the beam expander of a pair of lenses (28, 29) as shown in Fig. 8.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 21 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,826, 133.

Claims 21 and 24 provides for the use of error rate and the use of a liquid crystal panel the examiner takes Official Notice since these features are well known in the art to be equivalencies, as claimed, respectively.

***Response to Arguments***

Applicant's arguments filed 09/12/2008 have been fully considered but they are not persuasive.

Applicant argues that Ichimura does no disclose or suggest “the step of producing the second correction target under an occurrence condition of the minimum first correction target and changing a magnitude of the second correction target”.

The examiner cannot concur because Ichimura discloses and as depicted with reference to Fig. 6, for instance the spherical aberration target is produced under an occurrence that the minimum focus offset occurs, corresponding to the maximum amplitude of reproduction, and the

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spherical aberration magnitude is changed as depicted with respect to steps s2-2 and s2-3 in Fig.

7.

Applicant arguments found on page 4 of the remarks are not persuasive because limitations which are not in the claims are not treated and the claims are read in light of the specification and limitations from the specification are not read into the claims as suggested by the Applicant.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JORGE L. ORTIZ CRIADO whose telephone number is (571)272-7624. The examiner can normally be reached on Mon.-Fri 10:00 am- 6:30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrea L. Wellington can be reached on (571) 272-4483. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jorge L Ortiz-Criado/  
Primary Examiner, Art Unit 2627